United Nations A/52/968

General Assembly

Distr.: General
10 June 1998

Original: English

Fifty-second session
Agenda item 39 (a)
Oceans and the law of the sea: law of the sea

Agreement on cooperation and relationship between the United Nations and the International Tribunal for the Law of the Sea

Note by the Secretary-General

1. On 9 December 1996, the General Assembly approved resolution 51/34, in paragraph 7 of which it, *inter alia*, requested the Secretary-General to take steps to conclude a relationship agreement between the United Nations and the International Tribunal for the Law of the Sea, to be applied provisionally pending approval by the General Assembly and the States Parties to the United Nations Convention on the Law of the Sea. The Tribunal has subsequently informed the United Nations that it has the necessary legal personality to enter into agreements on its own.

2. Following the completion of the negotiations, on 18 December 1997, the Secretary-General and the President of the International Tribunal for the Law of the Sea signed the Agreement on Cooperation and Relationship between the United Nations and the International Tribunal for the Law of the Sea, which since that date has been applied provisionally in accordance with the resolution and the final clauses of the Agreement. Prior to the signing, a draft of the Agreement had been approved on 28 October 1997 by the Tribunal at its fourth session.

3. On 31 March 1998, I was informed by the Registrar that, on 12 March 1998, the Tribunal confirmed the approval of the Agreement at its fifth session.

4. The eighth meeting of States Parties to the United Nations Convention on the Law of the Sea, which was held in New York from 18 to 22 May 1998, took note with appreciation of the report of the Tribunal, including paragraphs 67 and 68, relating to the signing of the Agreement and its approval by the Tribunal.[1]

5. Pursuant to paragraph 7 of General Assembly resolution 51/34, I herewith submit to the Assembly for its approval the Agreement on Cooperation and Relationship between the United Nations and the International Tribunal for the Law of the Sea, which is attached to

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the present note. In accordance with paragraph 1 of Article 14 of the Agreement, it will enter into force on the date that the General Assembly approves the Agreement.

Notes

[1] See the report of the eighth Meeting of States Parties to the United Nations Convention on the Law of the Sea, document SPLOS/31, paras. 13 and 14.

Annex

AGREEMENT ON COOPERATION AND RELATIONSHIP BETWEEN THE UNITED NATIONS AND THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

The United Nations and the International Tribunal for the Law of the Sea,

Bearing in mind that in accordance with the Charter, the United Nations is the principal organization dealing with matters relating to the maintenance of international peace and security and that one of the main purposes of the Organization is to bring about by peaceful means the settlement of international disputes or situations that might lead to a breach of the peace;

Acknowledging the key role played by the United Nations under the Charter in the peaceful settlement of international disputes;

Bearing in mind that the General Assembly of the United Nations in its resolution 3067 (XXVIII) of 16 November 1973 decided to convene the Third United Nations Conference on the Law of the Sea for the adoption of a convention dealing with all matters relating to the Law of the Sea and that the Conference adopted the United Nations Convention on the Law of the Sea (hereinafter referred to as the Convention);

Bearing in mind that the International Tribunal for the Law of the Sea (hereinafter referred to as the International Tribunal) has been established in accordance with Article 287, paragraph 1 (a), and Annex VI of the Convention as an autonomous international judicial body;

Noting the role of the International Tribunal in the peaceful settlement of disputes in relation to the uses of the seas and the oceans and their resources;

Noting also that the functions of the International Tribunal are consistent with Article 2, paragraph 3, of the Charter providing that international disputes shall be settled by peaceful means;

Noting further the responsibilities entrusted to the Secretary-General of the United Nations under Article 319 and other provisions of the Convention;

Recalling General Assembly resolution 51/204 of 17 December 1996 inviting the International Tribunal to participate in the sessions and the work of the General Assembly in the capacity of observer;

Noting further General Assembly resolution 51/34 of 9 December 1996 and the decision of the first session of the International Tribunal calling for the conclusion of a relationship agreement between the United Nations and the International Tribunal;

Have agreed as follows:

Article 1

General

1. The United Nations recognizes the International Tribunal as an autonomous international judicial body with jurisdiction, as provided for in the relevant provisions of the Convention and the Statute of the International Tribunal annexed thereto.

2. The International Tribunal recognizes the responsibilities of the United Nations under the Charter, in particular in the fields of international peace and security, economic, social, cultural and humanitarian development and the peaceful settlement of international disputes.

3. The United Nations and the International Tribunal undertake to respect each other's status and mandate and to establish cooperative working relations pursuant to the provisions of this Agreement.

Article 2

Cooperation and coordination

The United Nations and the International Tribunal, with a view to facilitating the effective attainment of their objectives and the coordination of their activities, will:

(a) Consult and cooperate, whenever appropriate, on matters of mutual concern; and

(b) Pursue, whenever appropriate, initiatives to coordinate their activities.

Article 3

Reciprocal representation

1. Without prejudice to the decision of the General Assembly in resolution 51/204 granting observer status to the International Tribunal, and subject to such decisions as may be taken concerning the attendance of meetings by observers, the United Nations shall, subject to the rules and practices of the bodies concerned, invite the International Tribunal to attend meetings and conferences convened under the auspices of the United Nations, where observers are allowed, and whenever matters of interest to the International Tribunal are under discussion.

2. Subject to the applicable provisions of the rules of the International Tribunal, the Secretary-General of the United Nations or representatives of the Secretary-General may attend public meetings of the International Tribunal or its Seabed Disputes Chamber, including oral hearings.

3. Subject to the rules of the International Tribunal, written statements submitted by the United Nations to the International Tribunal for distribution shall be distributed by the Registry to the members of the International Tribunal. Written statements presented by the International Tribunal to the United Nations for distribution shall be distributed by the Secretariat of the United Nations to all members of the appropriate organs of the United Nations in accordance with the relevant rules of procedure. Such written statements will be circulated in the quantities and languages in which they were made available to the Registry or the Secretariat.

Article 4

Exchange of information and documents

1. The United Nations and the International Tribunal shall, to the fullest extent possible and practicable, and subject to paragraphs 2 and 3 of this Article, arrange for the regular exchange of information and documents of mutual interest. In particular:

(a) The Secretary-General of the United Nations shall:

(i) Periodically transmit to the International Tribunal information on developments relating to the Convention that are relevant to the work of the International Tribunal, including copies of communications received by the Secretary-General in the capacity of depositary of the Convention or depositary of any other agreement which confers jurisdiction on the International Tribunal;

(ii) Transmit to the International Tribunal copies of any documents notified to the Secretary-General or otherwise communicated to the United Nations by the International Court of Justice pursuant to its Statute and Rules of Court.

(iii) Subject to the applicable rules and regulations and the obligations of the United Nations under the relevant agreements, furnish to the International Tribunal information requested by it as relevant to a case before it.

(b) The Registrar of the International Tribunal shall:

(i) Periodically transmit to the United Nations information concerning developments under the Convention that are related to the activities of the International Tribunal;

(ii) Transmit to the United Nations information and documentation relating to the work of the International Tribunal, including documentation relating to pleadings, oral proceedings, orders, judgements and other communications and documentation, including those relating to applications submitted to the International Tribunal in accordance with Articles 290 and 292 of the Convention;

(iii) Furnish to the United Nations, with the concurrence of the International Tribunal and subject to its Statute and Rules, any information relating to the work of the International Tribunal requested by the International Court of Justice.

2. Nothing in this Agreement shall be construed to require either the United Nations or the International Tribunal to furnish any information the provision of which would, in its judgement, constitute a violation of the confidentiality of such information or of rights in proprietary materials.

3. The United Nations and the International Tribunal shall make every effort to achieve maximum cooperation with a view to avoiding undesirable duplication in the

collection, analysis, publication and dissemination of information related to matters of mutual interest. They will strive to combine, where appropriate, their efforts to secure the greatest possible usefulness and utilization of such information and to minimize the burdens placed upon national Governments and other organizations from which such information may be collected.

Article 5

Reports to the United Nations

1. The International Tribunal shall keep the United Nations informed of its activities that may require the attention of the United Nations. For this purpose, the International Tribunal may, when it deems it appropriate:

(a) Submit reports to the United Nations through the Secretary-General of the United Nations;

(b) Notify the Secretary-General of the United Nations whenever in its opinion, a question within the competence of the Security Council, in particular relating to the application of Article 298, paragraph 1 (c) of the Convention, arises in connection with the work of the International Tribunal.

Article 6

Personnel arrangements

1. The United Nations and the International Tribunal agree to apply as far as practicable common personnel standards, methods and arrangements designed to avoid serious discrepancies in terms and conditions of employment, to avoid competition in recruitment of personnel and to facilitate any mutually desirable interchange of personnel in order to obtain the maximum benefit from their services.

2. The United Nations and the International Tribunal agree to cooperate to the fullest extent possible in achieving these ends and in particular they agree to:

(a) Periodically consult on matters of mutual interest relating to the employment of their officers and staff, including conditions of service, duration of

appointments, classification, salary scale and allowances, retirement and pension rights and staff regulations and rules, with a view to securing as much uniformity in these matters as shall be found feasible;

(b) Cooperate in the interchange of personnel, when desirable, on a temporary or permanent basis, making due provision for the retention of seniority and pension rights;

(c) Strive for maximum cooperation in order to achieve the most efficient use of specialized personnel, systems and services.

(d) Cooperate in seeking an arrangement that will allow the extension of the competence of the United Nations Administrative Tribunal to the staff of the Registry of the International Tribunal.

Article 7

Conference services

1. Upon the request of the International Tribunal, the United Nations may, subject to availability, provide to the International Tribunal on a reimbursable basis, such facilities and services as may be required for the sessions of the International Tribunal, including translation and interpretation services, documentation and conference services.

2. The terms and conditions on which any facilities or services of the United Nations in connection with the matters referred to in this article may be extended to the International Tribunal shall, where necessary, be the subject of supplementary arrangements concluded for this purpose.

Article 8

Administrative cooperation

The United Nations and the International Tribunal recognize the desirability of cooperation in administrative matters of mutual interest. They shall consult, from time to time, concerning the most efficient use of facilities, staff and services with a view to

avoiding the establishment and operation of overlapping facilities and services. They shall also consult to explore the possibility of continuing or establishing common facilities or services in specific areas.

Article 9

Laissez-passer

Members of the International Tribunal, the Registrar and other officials of the Registry shall be entitled, in accordance with such special arrangements as may be concluded between the Secretary-General of the United Nations and the International Tribunal, to use the laissez-passer of the United Nations as a valid travel document where such use is recognized by States Parties to the Agreement on the Privileges and Immunities of the International Tribunal for the Law of the Sea or other agreements defining the privileges and immunities of the International Tribunal, its members and officials. The above is without prejudice to the right of the International Tribunal to issue its own travel documents.

Article 10

Budgetary and financial matters

1. The International Tribunal recognizes the desirability of establishing close budgetary and financial relationships with the United Nations so that the maximum measure of coordination and uniformity with respect to administrative operations may be secured.

2. The United Nations and the International Tribunal agree to cooperate to the fullest extent possible in achieving these ends.

3. The International Tribunal agrees to conform, as far as may be practicable and appropriate, to standard practices and forms recommended by the United Nations.

4. The Registrar of the International Tribunal may consult with the Secretary-General of the United Nations with a view to achieving consistency in the presentation of the budget of the International Tribunal with that of the United Nations.

5. The United Nations may, upon request of the International Tribunal, provide advice on financial and fiscal questions of interest to the International Tribunal with a view to achieving coordination and the securing of uniformity in such matters.

Article 11

Financing of services

The costs and expenses resulting from the cooperation or the provision of services pursuant to this Agreement shall be subject to separate arrangements between the United Nations and the International Tribunal. To that end, the United Nations and the International Tribunal shall consult each other with a view to determining the most equitable manner in which such costs and expenses shall be borne.

Article 12

Implementation of the Agreement

The Secretary-General of the United Nations and the Registrar of the International Tribunal may enter into such supplementary arrangements for the implementation of this Agreement as may be found desirable in the light of the operating experience of the United Nations and the International Tribunal.

Article 13

Amendments

This Agreement may be amended by agreement between the United Nations and the International Tribunal. Any such amendment agreed upon shall enter into force on its approval by the General Assembly of the United Nations and by the International Tribunal.

Article 14

Entry into force

1. This Agreement shall come into force on its approval by the General Assembly of the United Nations and by the International Tribunal.

2. Pending such approval this Agreement shall be applied provisionally from the date of its signature by the Secretary-General of the United Nations and the President of the International Tribunal.

IN WITNESS THEREOF the undersigned have signed the present agreement.

SIGNED this 18th day of December 1997 at United Nations Headquarters in New York in two originals in the English language.

FOR THE UNITED NATIONS:

Kofi A. Annan
Secretary-General

FOR THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA:

Thomas A. Mensah
President